

Supervisors Mark Borkowski and Patricia Jursik, Chairpersons
By the Committees on Judiciary, Safety and General Services and Economic and
Community Development, reporting on:

File No. 13-152

From the Director of Operations, Department of Administrative Services, requesting
authorization to retain the law firm of Reinhart Boerner Van Deuren S.C. for legal services
related to the Downtown Transit Center and to amend the existing legal services contract
by adding an additional \$100,000 to an amount not to exceed \$140,000, by
recommending adoption of the following:

A RESOLUTION

WHEREAS, the Downtown Transit Center was built in 1992 and serves as a
marshaling facility for Milwaukee County Transit buses that terminate on the east end of
downtown Milwaukee; and

WHEREAS, due to transit route modifications since its construction, the Downtown
Transit Center facility is underused and not critical to the operation of the transit system;
and

WHEREAS, in August 2011, the Long Range Lakefront Planning Committee
recommended that "the Downtown Transit Center site be redeveloped with high-value,
multi-story use housing amenities more appropriate to its lakefront location;" and

WHEREAS, the recommendation also identified the site as having the potential of
connecting Downtown Milwaukee to the lakefront, adding value to the area and
complementing the existing lakefront development and structures, as well as drawing
visitors and residents to the lakefront; and

WHEREAS, the Milwaukee County Board of Supervisors approved the Long Range
Lakefront Planning Committee's report on November 3, 2011, by a vote of 18-1; and

WHEREAS, in April 2012, the Division of Economic Development issued a Request
for Information (RFI) to gauge the prospective interest in purchasing and redeveloping the
Downtown Transit Center property; and

39 WHEREAS, in May 2012, the Milwaukee County Board of Supervisors declared the
40 Downtown Transit Center property surplus, to be offered for sale for redevelopment; and
41

42 WHEREAS, Barrett Visionary Development responded to the RFI expressing interest
43 in acquiring the Downtown Transit Center, proposing a \$120 million, 44-story tower
44 comprising high-end apartments, retail, parking and a hotel; and
45

46 WHEREAS, based on the responses to the RFI, the Director of Economic
47 Development recommended that negotiations with Barrett Visionary Development
48 commence for a development contract for the Transit Center site; and
49

50 WHEREAS, in July of 2012 (File No. 12-633), the Milwaukee County Board of
51 Supervisors authorized the Director of Economic Development to negotiate with Barrett
52 Visionary Development on the terms and conditions of purchasing the Downtown Transit
53 Center property and developing the property as *The Couture*; and
54

55 WHEREAS, the State of Wisconsin Department of Natural Resources (DNR) has
56 concluded that none of the property is subject to the Public Trust Doctrine, but some
57 individuals and groups have indicated that they do not agree with the DNR conclusion;
58 and
59

60 WHEREAS, due to the specialized knowledge and expertise of attorneys with the
61 law firm of Reinhart Boerner Van Deuren S.C., the Office of Corporation Counsel
62 previously entered into a contract for legal services with Reinhart Boerner Van Deuren S.C.
63 for an amount not to exceed \$40,000, to provide advice concerning the Public Trust
64 Doctrine and its applicability to the subject property, with discounted hourly rates not to
65 exceed \$335 per hour for shareholders, but such sums have been expended; and
66

67 WHEREAS, in order to act as expeditiously as possible to fulfill the policies of prior
68 adopted resolutions and to develop the subject property consistent with the Public Trust
69 Doctrine, it is necessary to obtain legal certainty concerning Milwaukee County's legal
70 right to develop the property as intended; and
71

72 WHEREAS, the Committee on Judiciary, Safety and General Services, at a joint
73 meeting of the Committees on Judiciary, Safety and General Services and Economic and
74 Community Development held on February 7, 2013, recommended approval of the said
75 request (vote 4-1); and
76

77 WHEREAS, the Committee on Economic and Community Development at the joint
78 committee meeting held on February 7, 2013 also recommended approval of the said
79 request (vote 6-1); now, therefore,
80

81 BE IT RESOLVED, that the Office of Corporation Counsel is authorized and directed
82 to amend the legal services contract with Reinhart Boerner Van Deuren S.C., for an
83 additional amount of \$100,000, and a total contract amount not to exceed \$140,000, with
84 hourly rates not to exceed \$335 per hour, to represent Milwaukee County in litigation to
85 declare rights in the property; and
86

87 BE IT FURTHER RESOLVED, that Reinhart Boerner Van Deuren S.C. is authorized to
88 negotiate for the issuance of a title insurance policy to the potential buyer and its lender
89 and such endorsements to that policy as would be appropriate on the sale of the subject
90 property for development and to take any actions as may be appropriate and necessary to
91 assure the issuance of a title insurance policy; and
92

93 BE IT FURTHER RESOLVED, that the additional funds are authorized to be
94 expended from the 2013 Budget, Org Unit 1961, the Litigation Reserve, and that this
95 contract shall be exempt from the provisions of §56.30 of the Milwaukee County General
96 Ordinances (MCGO); and
97

98 BE IT FURTHER RESOLVED, that pursuant to §1.11(c)(3), MCGO, the Milwaukee
99 County Board of Supervisors authorizes the filing of an action under Chapter 841, Stats., for
100 a declaration of rights in property to obtain a judgment determining the extent of the
101 County's title and rights to the subject property.
102

103
104 jmj
105 02/05/13
106 H:\Shared\COMCLERK\Committees\2013\Jan\Joint JSGS & ECD\Resolution\13-152 JSGS.docx

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: January 30, 2013

Original Fiscal Note ☒

Substitute Fiscal Note ☐

SUBJECT: Authorization to retain Reinhart Boerner Van Deuren, S.C. for legal services related to the Downtown Transit Center and authorization for litigation.

FISCAL EFFECT:

X No Direct County Fiscal Impact

☐ Increase Capital Expenditures

☐ Existing Staff Time Required

☐ Decrease Capital Expenditures

Increase Operating Expenditures
(If checked, check one of two boxes below)

☐ Increase Capital Revenues

☐ Absorbed Within Agency's Budget

☐ Decrease Capital Revenues

☐ Not Absorbed Within Agency's Budget

☐ Decrease Operating Expenditures

☐ Use of contingent funds

☐ Increase Operating Revenues

☐ Decrease Operating Revenues

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	\$0	\$0
	Revenue	\$0	\$0
	Net Cost	\$0	\$0
Capital Improvement Budget	Expenditure	\$0	\$0
	Revenue	\$0	\$0
	Net Cost	\$0	\$0

DESCRIPTION OF FISCAL EFFECT

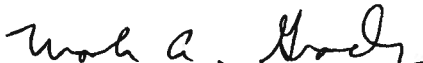
In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. ¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

- A. Funding is being requested to hire Reinhart Boerner Van Deuren for legal services to obtain legal certainty as it pertains to Milwaukee County's right to develop the Downtown Transit Center.
- B. The Direct Cost is a total contract amount not to exceed \$140,000 from the Litigation Reserve Account (Org. Unit 1961), but with the new expenditure being \$100,000.
- C. Funding for this request is within the 2013 Adopted Budget for the Litigation Reserve Account.
- D. The not-to-exceed amount is based on a not-to-exceed rate of \$335/hour.

Department/Prepared By Mark A. Grady, Deputy Corporation Counsel

Authorized Signature



Did DAS-Fiscal Staff Review?



Yes



No

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.